

## § 1951.227

for debt settlement actions set forth in subpart C of part 1956 of this chapter.

(i) In determining whether a borrower should be released from liability, the State Director will consider the borrower's debt-paying ability based on its assets and income at the time of the sale.

(ii) Release from liability will be accomplished by using Form FmHA or its successor agency under Public Law 103-354 1965-8 and obtaining from the County Committee a memorandum recommending the release which contains the following statement:

\_\_\_\_\_ in our opinion does not have reasonable debt-paying ability to pay the balance of the debt after considering its assets and income at the time of the sale. The borrower has cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of its ability. Therefore, we recommend that the borrower be released from liability upon the completion of the sale.

## § 1951.227 Protective advances.

The State Director is authorized to approve, without regard to any loan or total indebtedness limitation, vouchers to pay costs, including insurance and real estate taxes, to preserve and protect the security, the lien, or the priority of the lien securing the debt owed to or insured by FmHA or its successor agency under Public Law 103-354 if the debt instrument provides that FmHA or its successor agency under Public Law 103-354 may voucher the account to protect its lien or security. The State Director must determine that authorizing a protective advance is in the best interest of the government. For insurance, factors such as the amount of advance, occupancy of the structure, vulnerability to damage and present value of the structure and contents will be considered.

(a) Protective advances are considered due and payable when advanced. Advances bear interest at the rate specified in the most recent debt instrument authorizing such an advance.

(b) Protective advances are not to be used as a substitute for a loan.

(c) Vouchers are prepared in accordance with applicable procedures set forth in FmHA or its successor agency under Public Law 103-354 Instruction

## 7 CFR Ch. XVIII (1-1-01 Edition)

2024-A (available in any FmHA or its successor agency under Public Law 103-354 office).

[55 FR 4399, Feb. 8, 1990, as amended at 57 FR 36591, Aug. 14, 1992]

## §§ 1951.228-1951.229 [Reserved]

## § 1951.230 Transfer of security and assumption of loans.

(a) *General.* It is FmHA or its successor agency under Public Law 103-354 policy to approve transfers and assumptions to transferees which will continue the original purpose of the loan in accordance with the following and specific requirements relating to eligible and ineligible borrowers set forth below:

(1) The present borrower is unable or unwilling to accomplish the objectives of the loan.

(2) The transfer will not be disadvantageous to the Government or adversely affect either FmHA or its successor agency under Public Law 103-354's security position or the FmHA or its successor agency under Public Law 103-354 program in the area.

(3) Transfers to eligible applicants will receive preference over transfers to ineligible applicants if recovery to FmHA or its successor agency under Public Law 103-354 is not less than it would be if the transfer were to an ineligible applicant.

(4) If the FmHA or its successor agency under Public Law 103-354 debt(s) exceed the present market value of the security as determined by the State Director, the transferee will assume an amount at least equal to the present value.

(5) If the transfer and assumption is to one or more members of the borrower's organization, there must not be a loss to the government.

(6) FmHA or its successor agency under Public Law 103-354 concurs in plans for disposition of funds in the transferor's debt service, reserve, operation and maintenance, and any other project account, including supervised bank accounts.

(7) When the property to be transferred is to be used for the same or similar purposes for which the loan was made, the transferee will execute Form FmHA or its successor agency under